

Response to Petitions of the American Petroleum Institute, American Fuel and Petrochemical Manufacturers, and Monroe Energy LLC for Reconsideration of Portions of the 2013 Renewable Fuel Standards Annual Rule

A. Introduction

On August 15, 2013, the Environmental Protection Agency (“EPA”) issued a final rule establishing 2013 renewable fuel standards under the Clean Air Act (the “2013 RFS Standards Rule” or “the Rule”). 78 Fed. Reg. 49794. Subsequently, on October 10, October 11, and October 15, 2013, respectively, the American Fuel and Petrochemical Manufacturers (“AFPM”), the American Petroleum Institute (“API”) and Monroe Energy LLC (“Monroe”) (collectively, referred to herein as “Petitioners”) filed petitions for reconsideration of the Rule. Certain aspects of the Rule were also challenged and upheld in the United States Court of Appeals for the District of Columbia Circuit. *Monroe v. EPA*, 750 F.3d 909 (DC Cir. 2014). Among the issues regarding the Rule that were resolved in EPA’s favor in *Monroe* were EPA’s authority to issue the 2013 standards after the statutory deadline, EPA’s interpretation of its authority to issue waivers pursuant to CAA 211(o)(7)(D), and the reasonableness of EPA’s consideration of carryover RINs and cost considerations for various obligated parties in declining to use its waiver authority in establishing the 2013 advanced biofuel and total renewable fuel standards. While some of the matters addressed in *Monroe* overlap with issues raised in the petitions for reconsideration (e.g., AFPM’s general arguments with respect to EPA’s delay in issuing the standards) and were resolved by the *Monroe* decision, not all of the matters raised in the petitions for reconsideration were resolved by *Monroe*. EPA granted in part the petitions for reconsideration filed by API and AFPM insofar as the petitions related to the 2013 cellulosic biofuel standard. As a result of that reconsideration, EPA issued a revised 2013 cellulosic biofuel standard on May 2, 2014. 79 Fed. Reg. 25025. This revised standard was not challenged

by any party. As a result, all matters in the petitions for reconsideration related to the original 2013 cellulosic biofuel standard are deemed resolved or moot.

This decision document contains EPA's response to the remaining issues raised in the API, AFPM and Monroe petitions for reconsideration that were not resolved or rendered moot by *Monroe* or by EPA's issuance of a revised 2013 cellulosic biofuel standard. The remaining issues are limited to the following:

1. EPA's use in the 2013 RFS Standards Rule of a projection of gasoline and diesel consumption in 2013 from the Energy Information Administration ("EIA") that was submitted to EPA on May 8, 2013, rather than the earlier October 18, 2012 EIA projection that was referenced in the proposed rule (API and AFPM);
2. EPA's adjustment of the final renewable fuel percentage standards in the 2013 RFS Standards Rule to reflect the grant of a small refinery exemption issued in the interim between publication of the proposed and final rules (API and AFPM); and
3. EPA's reaffirmation in the 2013 RFS Standards rule of its established position regarding the eligibility of refineries for small refinery exemptions (Monroe).

B. Standard for Reconsideration

The petitions were submitted under the reconsideration provisions of section 307(d)(7)(B) of the Clean Air Act (CAA). This section strictly limits petitions for reconsideration both in time and scope. It states that:

Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b)). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness

of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

Thus the requirement to convene a proceeding to reconsider a rule is based on the petitioner demonstrating to EPA: (1) that it was impracticable to raise the objection during the comment period, or that the grounds for such objection arose after the comment period but within the time specified for judicial review (*i.e.*, within 60 days after publication of the final rulemaking notice in the *Federal Register*, *see* CAA section 307(b)(1)); and (2) that the objection is of central relevance to the outcome of the rule. Regarding the first criterion for reconsideration, a petitioner must show why the issue could not have been presented during the comment period, either because it was impracticable to raise the issue during that time or because the grounds for the issue arose after the period for public comment (but within 60 days of publication of the final action). Thus, CAA section 307(d)(7)(B) does not provide a forum to request EPA to reconsider issues that actually were raised, or could have been raised, during the comment period.

Regarding the second criterion for reconsideration, an objection is of central relevance to the outcome of the rule only if it provides substantial support for the argument that the regulation should be revised.¹

As discussed in this decision, EPA is denying the AFPM, API and Monroe petitions for reconsideration because they fail to meet one or both of these criteria.

C. EPA Response to Petitions for Reconsideration of the 2013 RFS Standards Rule

1. EPA's use of an updated EIA projection of 2013 gasoline and diesel consumption.

¹ *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 125 (DC Cir. 2012).

Clean Air Act Section 211(o)(3)(A) provides that, not later than October 31 of each calendar year, EIA shall provide to EPA “an estimate, with respect to the following calendar year, of the volumes of transportation fuel, biomass-based diesel, and cellulosic biofuel projected to be sold or introduced into commerce in the United States.” The statute then specifies that “[n]ot later than November 30 of [each calendar year], *based on the estimate provided under subparagraph (A)*, [EPA] shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.” *Id.* § 7545(o)(3)(B)(i) (emphasis added).

Each EIA estimate includes three data points - - the total amount of transportation fuel and the amounts of biomass-based diesel and cellulosic biofuel projected to be sold or introduced into commerce in the coming year. The Act treats all of this information similarly; that is, EPA is to “determine” the RFS obligations for each year “based on” the EIA estimate. The United States Court of Appeals for the D.C. Circuit has interpreted this statutory requirement in the context of a challenge to the 2012 cellulosic biofuel standard. *API v. EPA*, 706 F.3d 474, 478 (DC Cir. 2013). The Court held that the Act “[p]lainly . . . [does not] contemplate slavish adherence by EPA to the EIA estimate”; had Congress so intended, “it could have skipped the EPA ‘determination’ altogether.” *Id.* Instead, “EPA [i]s entitled . . . to read the phrase ‘based on’ as requiring great respect but allowing deviation consistent with that respect.” *Id.* Accordingly, the Court upheld EPA’s supplementation of EIA’s estimate with information EPA received from prospective cellulosic biofuel producers—including information submitted after EPA had received EIA’s estimate—for the purpose of “determin[ing]” the 2012 cellulosic biofuel standard. *Id.*²

² The Court remanded the 2012 cellulosic biofuel standard on other grounds. *Id.* at 479-80.

EPA discussed the *API* decision in the preamble of its proposed 2013 RFS Standards Rule (published approximately two weeks after *API*), and explained how EPA would appropriately use the discretion acknowledged in *API* to determine the 2013 RFS cellulosic biofuel obligations “based on” EIA’s estimate. 78 Fed. Reg. 9282 at 9293-94. EPA’s proposal further made clear that the final 2013 rule would *not* rely *solely* on EIA’s October 2012 estimate and the other information EPA had developed or received prior to the proposal. Rather, EPA also would “continue to monitor the progress of the cellulosic biofuel industry, in particular the progress of the companies which form the basis of our proposed 2013 volume projection.” *Id.* at 9295.

In response to the proposed rule, EPA did not receive any comments asserting that it would be improper for EPA to consider more recent EIA information than was included in the October 2012 EIA estimate. To the contrary, Petitioners API and AFPM argued that EPA should *ignore* the October 2012 EIA cellulosic biofuel estimate of 9.6 million actual gallons altogether, and instead should establish a standard at either zero or up to 21,093 gallons based on actual cellulosic biofuel production rates in 2012. *See* April 8, 2013 AFPM comments on proposed 2013 RFS Standards at 11-12; April 8, 2013 API comments on proposed 2013 RFS Standards at 7. Additionally, Petitioners and many other obligated parties specifically cited an updated EIA cellulosic biofuel projection of 5 million gallons that was reported on February 26, 2013 as support for their arguments that EPA should set a lower cellulosic biofuel standard than had been proposed. *See* 78 Fed. Reg. at 49,804 & n.26; *see also, e.g.*, April 8, 2013 API comment letter on proposed 2013 RFS Standards, p.5; April 8, 2013 AFPM comment letter on proposed 2013 RFS Standards, p. 7; April 7, 2013 Monroe comment letter on proposed 2013 RFS Standards

(adopting AFPM comments); April 2, 2013 Marathon Petroleum comment letter on proposed 2013 RFS Standards, p. 2.

“To ensure that [EPA was] using the most up to date information,” as it previously had indicated it would do—and consistent with Petitioners’ and other commenters’ suggestion that the October 2012 EIA estimate was no longer current—“EPA requested and received from EIA an updated projection of cellulosic biofuel production in 2013 on May 8, 2013.” 78 Fed. Reg. at 49,804-05 & n.27. The May 2013 EIA estimate projected 4 million actual gallons of cellulosic biofuel production in calendar year 2013, a substantial reduction from the 9.6 million actual gallons EIA had projected in its October 2012 estimate. *Compare* 78 Fed Reg. at 49,805 (citing the May 2013 projected figure), *with id.* at 49,804 at Table II.C.2 (tabulating EIA’s October 2012 projections). As Petitioners had requested, EPA took into consideration updated EIA information for cellulosic biofuel for 2013, in conjunction with other appropriate information, in deriving the final cellulosic biofuel applicable volume for 2013. *See generally id.* at 49,804-09. However, the EIA’s May 2013 estimate also included lower projections of the total volumes of gasoline and diesel fuel that would be used in 2013. *See* May 8, 2013 letter from A. Michael Schaal, USEIA, to Christopher Grundler, EPA. Just as it used EIA’s revised cellulosic volume estimate for the final rule, EPA used these additional revised estimates from EIA in setting the percentage standards for cellulosic biofuel and for the other three categories of renewable fuel. As Petitioners note, the decrease in the estimate of total gasoline and diesel fuel to be used in 2013 had the effect of *increasing* the 2013 renewable fuel *percentage* requirements for each obligated party.

The EPA finds that Petitioners’ challenges to EPA’s use in the 2013 RFS standards rule of EIA’s revised estimates of gasoline and diesel consumption in 2013 do not satisfy the

statutory criteria for reconsideration, both because the challenges could have been raised during the comment period and because they are not of central relevance. First, EPA proposed to rely on EIA estimates of 2013 gasoline and diesel consumption and that proposal was sufficient to alert the public to submit any objections to EIA's estimation methodology. In addition, EPA specifically proposed not to rely for the final rule on EIA's October, 2012 cellulosic biofuel projection, but to update that projection with relevant data obtained between the proposed and final rule. There is no logical reason to update EIA information related to cellulosic biofuel production in deriving the final standards while not updating EIA data related to projected gasoline and diesel use, so EPA's statements in the preamble to the proposed rule were sufficient to put the public on notice that EPA may use updated EIA data for all relevant purposes in deriving the final standards, yet Petitioners failed to submit comments on this issue. Moreover, the fact that the Petitioners *asked* EPA to take into consideration the downward revision of EIA's cellulosic volume projection, and to reject the October, 2012 EIA cellulosic biofuel projection altogether to set a volume requirement based on actual use in 2012 confirms that Petitioners viewed the question of whether October 2012 projections or updated data should be used in setting the standards as an appropriate subject for comment.

Second, even assuming *arguendo* that Petitioners could not have raised this issue during the period for public comment, the requests for reconsideration based on use of updated EIA data are appropriately denied since this issue is not of central relevance. An objection is of central relevance to the outcome of the rule only if it provides substantial support for the argument that the regulation should be revised. *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102, 125 (DC Cir. 2012). This conclusion is supported by the Clean Air Act provision noting that a Court may only invalidate a rule due to an alleged procedural error "if the error [was] so serious

and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such errors had not been made.” 42 U.S.C. § 7607(d)(8); *see, e.g., Portland Cement*, 665 F.3d 177, 192 (D.C. Cir. 2011). The D.C. Circuit’s decision in *API* dispelled any notion that the statute somehow prohibits EPA from supplementing EIA’s October estimate with additional pertinent information for the purpose of “determining” the calendar year renewable fuel standards. If EPA may consider supplemental information from EIA’s underlying data sources, surely it may also consider an updated estimate from EIA itself. Likewise, if EPA may consider updated EIA estimates of cellulosic biofuel production, as the Petitioners advocated when they submitted their rulemaking comments, then surely EPA may also reasonably consider other updated portions of EIA’s estimate, including its projections of total gasoline and diesel fuel use.

In addition the D.C. Circuit, which is charged with reviewing all challenges to Clean Air Act rules, has long held that “an agency may use supplementary data, unavailable during the notice and comment period that expands on and confirms information contained in the proposed rulemaking and addresses alleged deficiencies in the pre-existing data, so long as no prejudice is shown.” *Solite Corp. v. EPA*, 952 F.2d 473, 484 (D.C. Cir. 1991) (internal quotations and alterations omitted). Petitioners were not prejudiced by the EPA’s use of the updated data, under *Solite*.

Petitioners do not point to inaccuracies in the data contained in the [survey]. See *Community Nutrition Institute*, 749 F.2d at 58 (no prejudice from agency’s response to comments in form of “new scientific studies” where petitioners did “not even suggest that the new studies were defective”). Nor does the record suggest that EPA hid or disguised the information it used, or otherwise conducted the rulemaking in bad faith.

Solite, 952 F.2d at 484. As was the case in *Solite*, Petitioners here do not identify any deficiency or inaccuracy in EIA’s revised estimate of total gasoline and diesel fuel use, and

therefore were not prejudiced by the Agency’s use of this information. Indeed, in this case, having received comments specifically advocating that the Agency use updated EIA projections of cellulosic biofuel production, it was appropriate for EPA both to follow the commenters’ specific suggestion regarding updated cellulosic biofuel production estimates *and* to follow the *logic* of their suggestion by also using EIA’s revised projections of total gasoline and diesel fuel. *See BASF Wyandotte Corp. v. Costle*, 598 F.2d 637, 643 (1st Cir. 1979) (finding notice adequate where commenters criticized proposed subcategorization and suggested additional subcategories for final rule, and EPA agreed with criticism of its proposal but responded by creating *fewer* subcategories); *accord Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 951 (D.C. Cir. 2004) (“Agencies [] are free. . . to modify proposed rules as a result of the comments they receive.”); *Am. Frozen Food Inst. v. Train*, 539 F.2d 107, 134-35 (D.C. Cir. 1976) (same); *see also Treasure State Resource v. EPA*, 805 F.3d 300, 304 (D.C. Cir. 2015)(EPA use of new “weight of the evidence” rule in non-attainment designations upheld despite claims of inadequate notice and comment where the new rule merely codified established practice.).

EPA’s methodology in calculating the percentage standards did not change as a result of using the additional EIA data. Rather, EPA used the additional data as more accurate inputs for the formula described in the proposal and set forth in the RFS regulations. Moreover, the differences between the proposed and final percentage standards that resulted, in part, from EPA’s revised estimate of total gasoline and diesel fuel use were minor: the total renewable fuels percentage went up slightly from 9.63% to 9.74%; the advanced biofuel percentage changed from 1.60% to 1.62%; the biomass-based diesel percentage changed from 1.12% to 1.13%; and the cellulosic biofuel percentage *decreased* from 0.008% to 0.004%. *Compare* 78

Fed. Reg. at 9286 (Table 1.B.3-2), *with id.* at 49,798 (Table 1.B.3-2).³ The mere fact that there was some change in the percentages does not, by itself, mean that the final rule was not a “logical outgrowth” of the proposal. Indeed, the 2010 rule upheld in *Nat’l Petrochemical & Refiners Ass’n v. EPA*, 630 F.3d 145 (DC Cir. 2010), involved comparable or greater increases in the final percentage standards as compared with the proposal—for example, the total renewable fuel percentage standard changed from 8.01% to 8.25% in the final 2010 rule, while the advanced biofuel standard changed from 0.59% to 0.61%. *Compare* 74 Fed Reg. 24,904, 24,915, *with* 75 Fed. Reg. at 14,718. If EPA were “required to adopt a final rule that is *identical* to the proposed rule,” it “could learn from the comments on its proposals only at the peril of subjecting itself to rulemaking without end.” *Ne. Md. Waste Disposal*, 358 F.3d at 951 (emphasis added, internal quotation and citation omitted); *see also Am. Frozen Food*, 539 F.2d at 135 n.51.

Because EPA was not precluded from using updated EIA data in the final rule, and because Petitioners have not identified any substantive concerns with the updated EIA data, Petitioners have failed to demonstrate that their objection is of central relevance to the rulemaking (i.e., that their objection provides substantial support for the argument that the regulation should be revised). *See Treasure State Resource v. EPA*, 805 F.3d at 304 (challenge to EPA use of data from monitor calibrated to a prior air quality standard denied where petitioner presented no evidence that the monitor provided a faulty measurement).

EPA is therefore denying reconsideration of the Rule based on this objection, both because the objection could have been raised during the comment period and because the objection is not of central relevance.

³ After reconsideration, the final cellulosic biofuel standard was further reduced to 0.0005%. 79 Fed. Reg. 25025, 25031.

2. EPA's adjustment of the final percentage standards to reflect the grant of a small refinery exemption

In the Energy Policy Act of 2005, Congress temporarily exempted certain small refineries from RFS obligations through December 31, 2010, and provided for possible continuation of the exemptions based either on a study to be conducted by the Department of Energy, or in response to petitions from small refineries alleging that compliance with RFS requirements would cause them disproportionate economic hardship. *See* CAA 211(o)(9)(A), (B). Although major amendments to the RFS program were enacted as part of the Energy Independence and Security Act of 2007, there were no modifications to the small refinery exemption provisions. *See* 78 Fed. Reg. at 9302-03 (describing the history of the exemptions); 40 C.F.R. §§ 80.1441, 80.1442 (codifying the exemptions); *see also* CAA 211(o)(1)(K) (defining “small refinery”). EPA subsequently extended the exemption through December 31, 2012 for certain small refineries based on the results of the Department of Energy study, as required by CAA 211(o)(9)(A)(ii). *See* 78 Fed. Reg. at 9303. Prior to the 2013 rulemaking, EPA had granted several case-by-case small refinery exemptions for both the 2011 and 2012 calendar years. *See id.*

EPA's 2010 rule codified a provision requiring that the calculation of the final RFS percentage standards adopted for each calendar year take into account any small refinery exemptions granted for that year. *See* 40 C.F.R. § 80.1405(c).⁴ Consistent with that requirement, EPA's established practice in RFS rulemakings is that, “[i]f additional individual refinery requests for exemptions are approved following the release of [a proposed RFS rule], the

⁴ This provision identifies the equations used to calculate each of the four RFS percentage standards. *Id.* In each equation, quantities designated as “GE_i” and “DE_i,” respectively, are both subtracted from the denominator. *Id.* “GE_i” and “DE_i” represent the amounts of gasoline and diesel fuel, respectively, “projected to be produced by exempt small refineries and small refiners, in year i, in gallons, in any year they are exempt per §§ 80.1441 and 1442.” *Id.*

final standards will be adjusted to account for those exempted volumes of gasoline and diesel.” 76 Fed. Reg. 38,844, 38,859 (preamble to proposed 2012 rule); *see also* 77 Fed. Reg. 1320, 1341 (adjustment in final 2012 rule).

In the February 2013 proposed rule preamble, EPA explained that it had “calculated the proposed 2013 standards without a small refinery/small refiner adjustment” because, “at [that] time, no exemptions ha[d] been approved for 2013.” 78 Fed. Reg. at 9303. However, EPA made clear that the calculation of the final 2013 standards would be adjusted accordingly in the event EPA granted any small refiner exemptions prior to promulgating the final rule:

[I]f an individual small refinery or small refiner requests an exemption and is approved following the release of this NPRM and prior to issuance of the final rule, the final standards will be adjusted upward to account for the exempted volumes of gasoline and diesel.

Id. EPA did not request comment on this approach or suggest that the Agency was in any way reevaluating it. Instead, EPA only requested comment on whether it would be appropriate to make *subsequent* changes to the 2013 standards “if small refiner exemptions are granted *after* the final rule is issued,” while noting that such changes would be less than ideal in EPA’s view because “[p]eriodic revisions . . . to reflect waivers issued to small refineries or refiners would be inconsistent with the statutory text, and would introduce an undesirable level of uncertainty for obligated parties.” *Id.* (emphasis added). In the final rule, EPA adjusted the standards to account for one small refinery exemption that it had approved after the proposal and prior to promulgating the final rule, but determined that it would not make any *further* adjustments to the standards in the event it granted additional exemptions *after* promulgation. *See* 78 Fed. Reg. at 49,825 (“EPA has granted one exemption for 2013. However, any requests for exemption that are approved after the release of today’s final rulemaking will not affect the 2013 standards.”).

Petitioners object to the final standards' adjusted calculation based on the one small refiner exemption EPA approved before it promulgated the final rule. As shown above, a provision of EPA's 2010 rule—codified at 40 C.F.R. § 80.1405(c)—*required* EPA to adjust the final 2013 standards in this manner. Thus, Petitioners' quarrel is with the 2010 rule, and it is too late to challenge that rule here. *See* CAA 307(b)(1).

Even if EPA's February 2013 proposal could somehow be construed to have reopened this issue—and it cannot since, as shown above, EPA specifically limited its request for comments to the issue of whether to revise the 2013 standards based on exemptions approved *after* promulgating them—Petitioners' request for reconsideration would still be appropriately denied for failure to raise their objection during the comment period. None of the comments EPA received took issue with EPA's statement in the proposed rule preamble that it would adjust the 2013 proposed standards to account for any small refinery exemptions granted prior to promulgating the final rule.⁵ Accordingly, reconsideration is appropriately denied on this basis alone.

In any event, granting the small refiner exemption made virtually no difference in the final percentage standards for 2013. By using the values for the equation terms in Table IV.B.3-1 of the final rule preamble, and assuming zeroes for the quantities "GE₁" and "DE₁," it is possible to re-calculate the final 2013 percentage standards as if there had been no exemption. *See* 78 Fed. Reg. at 49,826; *see also* 40 C.F.R. § 80.1405(c) (explaining the equation terms). The result, if this exercise were performed, is that the cellulosic biofuel, biomass-based diesel,

⁵ EPA acknowledged one commenter who it understood was "opposed to further extending exemptions to small entities," but who further commented that, "lawfully, the standards must be adjusted *whenever* a waiver is granted." 78 Fed. Reg. at 49,826 (emphasis added). While this comment may have disagreed with EPA's decision *not* to revise the standards based on small refiner exemptions granted *after* promulgating the final rule—a decision that no party challenges here—it did not object to EPA's position on the question for which Petitioners seek reconsideration.

and advanced biofuel percentage standards would be unchanged, and the total renewable fuel standard would be negligibly reduced from 9.74% to 9.73%. Thus, granting the exemption and then accounting for it in the final standards as the existing regulations *required* EPA to do, had only a *de minimis* effect on the total renewable fuel standard and otherwise had no effect at all.

Finally, even if EPA had not established this approach in a prior rulemaking, EPA continues to believe that it would have been the appropriate approach to adopt in this rulemaking. Petitioners API and AFPM suggest that the need for regulatory certainty and the fact that the rule was issued after the statutory deadline provide a sufficient basis to ignore the impact of the small refiner exemption on the percentage standards. API Petition at 5; AFPM Petition at 12. EPA appreciates the benefits of regulatory certainty, especially after standards are established, but also is charged with achieving the Act's objectives of ensuring that applicable volumes of renewable fuel are used in the transportation sector. In order to balance those competing considerations, EPA concluded that small refinery exemptions granted prior to the final rule should be reflected in the percentage standards but those granted after the final rule should not. After considering Petitioners' arguments, EPA continues to believe that this is an appropriate balancing. Likewise, while EPA recognizes the additional issues created by missing the statutory deadline for the final rule, EPA believes that we properly took those issues into consideration in issuing the rule, including the impact of the single small refinery exemption. Accordingly, Petitioners' objection is not of central relevance since it does not provide substantial support for the argument that the regulation should be revised.

3. Eligibility for Small Refinery Adjustment

In the NPRM for the 2013 RFS Standards Rule, EPA solicited public comment on two areas related to small refiner/refinery exemptions. The first was whether it would be appropriate

to extend the two-year exemption for small refineries that was provided as a result of the DOE study pursuant to 211(o)(9)(A)(ii)(II). The second was whether EPA should amend the annual percentage standards established by rule to reflect small refinery exemptions that may be approved after issuance of a final rule. 78 Fed. Reg. 9303; *see also* 78 Fed. Reg. 49825-6. In discussing comments received on these two matters, EPA also noted that it had received comments suggesting that EPA extend the opportunity for waivers to mid-size refiners, on the basis that such refiners do not own ethanol facilities, have little control of the RIN and ethanol markets, their location prohibits the export of gasoline, and they have limited financial resources. 78 Fed. Reg. 49825. EPA also noted that this same commenter took issue with EPA's practice of considering "economic viability" in its evaluation of small refinery hardship petitions, when the commenter thought the inquiry should be limited to whether a refiner suffers disproportionately to others in the industry. *Id* at 49825-6. In responding to these comments, EPA explained the Act's provisions, and the regulatory history associated with current requirements, and explained that it interpreted the small refinery exemption provision to require a showing of "hardship" in addition to "disproportionate impact."

Petitioner Monroe correctly notes that EPA did not solicit public comment on the concept of expanding small refinery exemptions to cover mid-size refiners. Indeed, as Monroe notes, "that issue was well beyond the scope of EPA's requests for comment." Monroe Petition at 2. Monroe argues, however, that by responding to these beyond-the-scope comments, that EPA "considered extending" the hardship exemption to a broader class of obligated parties and that "as a result of EPA's failure to advise the public that it was willing, within the scope of its rulemaking, to consider extending the hardship exemption for small refineries and small refiners to other obligated parties, interested parties like Monroe were deprived of their opportunity to

offer evidence in support of such a rule change.” Monroe argues that this procedural defect, as well as the substantive reasons it articulates in support of a rule change to allow additional obligated parties to qualify for hardship relief, justify reconsideration.

Monroe errs in assuming that EPA “considered extending” the hardship exemption to a broader class of obligated parties simply because EPA provided an explanation of the regulatory history and justification for the longstanding rules related to small refinery exemptions in the preamble to the final rule.⁶ The scope of the small refinery exemption was set in the 2007 rulemaking implementing the original RFS provisions adopted through the Energy Policy Act of 2005. Those provisions were retained, with only minor conforming modifications, in the major 2010 rulemaking implementing the provisions of the 2007 Energy Independence and Security Act. EPA did not propose amending these provisions, and did not “consider” doing so in the 2013 RFS Standards Rule. It is well settled that agencies do not “reopen” a settled matter when, in response to comments that are beyond the scope of the rulemaking the Agency merely reaffirms its prior position. *United Transportation Union v. Surface Transportation Board*, 132 F.3d 71, 76 (DC Cir. 1998). This approach prevents “bootstrap procedures by which petitioners can comment on matters other than those actually at issue, goad an agency into a reply, and then sue on the grounds that the agency has re-opened the issue.” *Id.* Monroe attempts just such a bootstrapping procedure here – arguing that EPA has reopened or should reopen a settled issue simply because it responded to other parties’ beyond-the-scope comments by reaffirming its prior long-held position. Because a possible expansion of the small refiner/refinery exemption

⁶ Monroe inartfully attempts to twist EPA’s explanation of why it was not extending the 2-year exemption already provided to qualifying small refineries as a result of the DOE study (because there was no evidence of hardship that would “threaten the viability” of the companies) into a new justification for the longstanding limitations on the size of refineries that are eligible for small refinery relief that EPA merely explained in preceding text. *See Monroe Pet.* at 4.

provisions to additional obligated parties was not within the scope of the 2013 RFS Standards Rule, Monroe has not raised an objection of central relevance to the rulemaking, and Monroe's petition for reconsideration is denied.

D. Conclusion

For the reasons described above, the components of the AFPM, API and Monroe petitions for reconsideration of the 2013 RFS Standards Rule that were not earlier resolved through the *Monroe* case or prior EPA administrative action are denied.

Message

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Sent: 5/31/2018 3:45:16 PM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]; Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]; Daniell, Kelsi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cd867173479344b3bda202b3004ff830-Daniell, Ke]; Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]; Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]
Subject: Re: refinery waivers

Yes, thank you.

Sent from my iPhone

On May 31, 2018, at 11:26 AM, Block, Molly <block.molly@epa.gov> wrote:

Justin - you good with this updated response?

Sent from my iPhone

On May 31, 2018, at 11:25 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

One little edit. This is good. Send send send!

From: Block, Molly
Sent: Thursday, May 31, 2018 11:11 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: RE: refinery waivers

Deliberative Process / Ex. 5

From: Schwab, Justin

Sent: Thursday, May 31, 2018 10:54 AM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>

Cc: Bolen, Brittany <bolen.brittany@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Block, Molly <block.molly@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: RE: refinery waivers

I would not get into this much detail

Attorney Client / Ex. 5

Attorney Client / Ex. 5

From: Gunasekara, Mandy

Sent: Thursday, May 31, 2018 10:40 AM

To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>

Cc: Bolen, Brittany <bolen.brittany@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Block, Molly <block.molly@epa.gov>; Daniell, Kelsi <daniell.kelsi@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John

<konkus.john@epa.gov>

Subject: Re: refinery waivers

Deliberative Process / Ex. 5

Justin/Erik, can please take a look.

Deliberative Process / Ex. 5

Sent from my iPhone

On May 31, 2018, at 10:23 AM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

Mandy – let us know if the response below is wrong.

From: Wilcox, Jahan
Sent: Thursday, May 31, 2018 10:23 AM
To: Block, Molly <block.molly@epa.gov>
Cc: Press <Press@epa.gov>; Daguiard, Robert <Daguiard.Robert@epa.gov>
Subject: RE: refinery waivers

No.

From: Block, Molly
Sent: Thursday, May 31, 2018 10:22 AM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Press <Press@epa.gov>; Daguiard, Robert <Daguiard.Robert@epa.gov>
Subject: RE: refinery waivers

Flagging for Jahan

From: Gordon, Meghan [<mailto:meghan.gordon@spglobal.com>]
Sent: Thursday, May 31, 2018 10:21 AM
To: Daguiard, Robert <Daguiard.Robert@epa.gov>; Block, Molly
<block.molly@epa.gov>; Press <Press@epa.gov>
Subject: refinery waivers

Hi Robert/Molly/press team,

Does EPA have any response to today's Reuters story about current
RINs being issued for past waiver denials?

Thanks,
Meghan

Meghan Gordon
S&P Global Platts
(202) 383-2001 office

Ex. 6 cell

The information contained in this message is intended only for the recipient, and may be a confidential attorney-client communication or may otherwise be privileged and confidential and protected from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, please be aware that any dissemination or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by replying to the message and deleting it from your computer. S&P Global Inc. reserves the right, subject to applicable local law, to monitor, review and process the content of any electronic message or information sent to or from S&P Global Inc. e-mail addresses without informing the sender or recipient of the message. By sending electronic message or information to S&P Global Inc. e-mail addresses you, as the sender, are consenting to S&P Global Inc. processing any of your personal data therein.

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 5/21/2018 11:25:37 PM
To: Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]
CC: Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Li, Ryland (Shengzhi) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf0eac9d34b446f88e03f8ec48274f1-Li, Shengzh]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]; Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
Subject: RE: draft RFS small refinery exemption briefing

Thanks. On a lot of the other questions I can wait until we have time to discuss more fully. I do want to have briefings without Matt there, though, because I don't to be asking too many questions when he's the audience.

From: Orlin, David
Sent: Monday, May 21, 2018 7:00 PM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: RE: draft RFS small refinery exemption briefing

Justin,

Sue turned around another version of the small refinery briefing, reflecting your comments. Please note that many of your comments raised questions that are worth discussion but are best discussed in the context of the briefing and so we haven't addressed all of them or made edits that we didn't think were precisely accurate.

You had two more specific followup emails:

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Schwab, Justin
Sent: Monday, May 21, 2018 11:02 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: RE: draft RFS small refinery exemption briefing

Thanks.

From: Orlin, David
Sent: Monday, May 21, 2018 11:01 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: draft RFS small refinery exemption briefing

Justin,

I only have email access through my phone, and thus am limited in how much I respond but I wanted to let you know that Sue is looking at which of your comments can easily be addressed with edits vs which are more suited for discussion.

We will also be happy to discuss and get you more info on the questions you highlighted

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

We are still waiting to hear about timing of the briefing with Matt.

David Orlin
(202) 564-1222

On May 20, 2018, at 2:46 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

Of all these questions, this is one of the most pressing to me:

Deliberative -- Attorney Client / Ex. 5

From: Schwab, Justin
Sent: Saturday, May 19, 2018 8:42 PM
To: Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; 'Gautam Srinivasan (Srinivasan.Gautam@epa.gov)' <Srinivasan.Gautam@epa.gov>

Cc: Baptist, Erik <baptist.erik@epa.gov>

Subject: RE: draft RFS small refinery exemption briefing

Deliberative -- Attorney Client / Ex. 5

From: Schwab, Justin

Sent: Saturday, May 19, 2018 6:38 PM

To: Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Gautam Srinivasan (Srinivasan.Gautam@epa.gov) <Srinivasan.Gautam@epa.gov>

Cc: Baptist, Erik <baptist.erik@epa.gov>

Subject: RE: draft RFS small refinery exemption briefing

[I acknowledge this is an overload of comments, questions, and suggested edits, and many of the edits, even if accurate, may be unnecessary. But at least by getting all these questions out now I won't be at risk of slowing down the briefing for Matt 😊. It may be more efficient for me to meet with Sue (and David?) to go over this, if we can find time to do that sufficiently in advance of Matt's briefing that any changes can be made that seem like a good idea after we do meet. But if you want to wade through this and evaluate what changes are necessary/advisable based on it, feel free.]

*

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

From: Orlin, David
Sent: Friday, May 18, 2018 10:22 AM
To: Schwab, Justin <Schwab.Justin@epa.gov>
Subject: FW: draft RFS small refinery exemption briefing

Sorry! I accidentally emailed this to the "other" Justin the first time...

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Friday, May 18, 2018 10:04 AM
To: Baptist, Erik <baptist.erik@epa.gov>; Justin Heminger <Justin.Heminger@usdoj.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Ryland Li (Shengzhi) (Li.Ryland@epa.gov) <Li.Ryland@epa.gov>
Subject: draft RFS small refinery exemption briefing

Erik and Justin,

Per Matt's request, we are trying to schedule a briefing on RFS small refinery exemption issues (including both the recent ABFA lawsuit and the reallocation issue) for the first part of next week. We (mostly that means Sue) have put together the attached briefing (drawing on several briefings OTAQ prepared for Bill W).

We know there's a lot here, and we may need to make choices about how (or how much) to present to Matt when we meet with him (although we have asked for an hour). In any case, we thought it made sense at least to start with a briefing that provided the full background for the issues.

Could you let us know if you have any comments on the draft briefing?

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB98B15B7EC3-DORLIN]
Sent: 5/4/2018 9:58:37 PM
To: OGC Immediate Office MGMT [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ce597c53b604d6496992ae8a3bb3e45-OGC FTTA OGC]; OGC Immediate Office Support [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3245c051a592413cbf0ac500550d341b-OGC Front O]; Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; Grundler, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3be58c2cc8545d88cf74f3896d4460f-Grundler, Christopher]
CC: Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]
Subject: RE: NEW CAA LITIGATION: challenge to EPA's approach to small refinery exemptions for the RFS (ABFA v. EPA, DC Circuit no. 18-1115)
Attachments: ENV_DEFENSE-#842584-v1-admin_su_biofuels_docketed_petition.pdf

The DC Circuit docketed today a petition for review filed on May 1 by the Advanced Biofuels Association (ABFA) which challenges:

the Environmental Protection Agency's ("EPA") decision to modify the criteria or lower the threshold by which the Agency determines whether to grant small refineries an exemption from the Clean Air Act's Renewable Fuel Standards ("RFS") for reasons of "disproportionate economic hardship" pursuant to 42 U.S.C. § 7545(o)(9)(B)(i).

Attorney Client / Ex. 5

If you'd like any further information on this petition for review, please let us know.

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB98B15B7EC3-DORLIN]
Sent: 3/6/2018 4:13:42 PM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
CC: Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Li, Ryland (Shengzhi) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf0eac9d34b446f88e03f8ec48274f1-Li, Shengzh]
Subject: RE: small refinery exemption for new-built refineries
Attachments: Refinery Eligibility for OGC 20180306.docx

Thanks Erik. Ryland turned around another version of the briefing paper. Could you let us know if this addresses your comments, or if you have additional comments?

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Baptist, Erik
Sent: Monday, March 05, 2018 1:53 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: RE: small refinery exemption for new-built refineries

David,

Thanks for putting together the briefing paper. Attached please find my high-level feedback.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Orlin, David
Sent: Monday, March 5, 2018 11:23 AM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: small refinery exemption for new-built refineries

Erik,

Attorney Client / Ex. 5

Thanks, and please let us know if we can be of further assistance,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB9BB15B7EC3-DORLIN]
Sent: 12/11/2017 2:41:12 PM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
Subject: RE: **PBI / Ex. 4** (2015 case) **Deliberative Process / Ex. 5** - for your review

thanks

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Baptist, Erik
Sent: Saturday, December 09, 2017 8:48 AM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>
Subject: RE: **PBI / Ex. 4** (2015 case) / **Deliberative Process / Ex. 5** for your review

David,

Thanks for the background information. I agree with the approach and have only one suggested edit below:

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Orlin, David

Sent: Friday, December 8, 2017 3:11 PM

To: Baptist, Erik <baptist.erik@epa.gov>

Cc: Stahle, Susan <Stahle.Susan@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>

Subject: **PBI / Ex. 4** (2015 case) **Deliberative Process / Ex. 5** - for your review

Erik,

Deliberative -- Attorney Client / Ex. 5

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Baptist, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10FC1B085EE14C6CB61DB378356A1EB9-BAPTIST, ER]
Sent: 12/8/2017 4:00:23 AM
To: Orlin, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=aa64dad518d64c5f9801eb9bb15b7ec3-DORLIN]
CC: Schmidt, Lorie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f471d4b316f74b0591322b5c63f1d01c-Schmidt, Lorie]; Srinivasan, Gautam [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d69332838210416ba51779b19025f832-GSRINIVA]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Li, Ryland (Shengzhi) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7cf0eac9d34b446f88e03f8ec48274f1-Li, Shengzh]
Subject: RE: New **PBI / Ex. 4** decision

Thanks, David. This proposed text works for me.

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Orlin, David
Sent: Thursday, December 7, 2017 2:27 PM
To: Baptist, Erik <baptist.erik@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: RE: New **PBI / Ex. 4** decision

Thanks Erik. We've made some edits to one paragraph to try and address your concerns. For convenience, I am pasting in the new paragraph below (but the attached contains the full document and the redline). **Deliberative -- Attorney Client / Ex. 5**

Deliberative -- Attorney Client / Ex. 5

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Baptist, Erik
Sent: Sunday, December 03, 2017 4:51 PM
To: Orlin, David <Orlin.David@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: RE: New **PBI / Ex. 4** decision

David,

I do not have any specific edits to the draft decision document.

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Thanks,

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Orlin, David
Sent: Wednesday, November 29, 2017 5:44 PM
To: Baptist, Erik <baptist.erik@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>
Subject: FW: New **PBI / Ex. 4** decision

Erik,

Attached is a draft decision document

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Please let us know if you have any comments on this document, or would like to discuss anything further

Deliberative -- Attorney Client / Ex. 5

Deliberative -- Attorney Client / Ex. 5

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Baptist, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10FC1B085EE14C6CB61DB378356A1EB9-BAPTIST, ER]
Sent: 10/22/2017 7:49:00 PM
To: Trudeau, Shaun [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15644442a1194d7e9f07b0f9fc172d6d-Trudeau, Sh]
CC: Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Albores, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ce14f8709a5e4ac383af9d0b767fd8af-Ralbor02]
Subject: RE: CTS Item on Ergon-West Virginia, Inc. v. EPA/Challenge to denial of small refinery exemption under RFS program needs >> ERIK BAPTIST'S (approver 1 of 1) << Approval by 10/24/2017
Attachments: EWV litigation - EPA response brief - draft - 102017.docx

I have one comment in the attached. Thanks.

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Trudeau, Shaun
Sent: Friday, October 20, 2017 4:38 PM
To: Baptist, Erik <baptist.erik@epa.gov>
Cc: Mills, Derek <Mills.Derek@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>
Subject: FW: CTS Item on Ergon-West Virginia, Inc. v. EPA/Challenge to denial of small refinery exemption under RFS program needs >> ERIK BAPTIST'S (approver 1 of 1) << Approval by 10/24/2017

Submitted by: Susan Stahle
Due date: 10/24/2017 at 6:00PM

“Attached is EPA's response brief for the lawsuit above in which Ergon-West Virginia, Inc. (EWV) petitioned for review of EPA's denial of its petition for an exemption from its 2016 RFS obligations under the CAA. The filing deadline is Monday, October 30, 2016. DOJ sent this version of the brief to Chris Vaden today for his review. DOJ plans to send the final version of the brief to its front office for its review and approval next Tuesday, October 24, 2017.

DOJ also notes the following about this version of the brief:

Attorney Client / Ex. 5

Attorney Client / Ex. 5

and (2) DOJ has not yet run a proof or cite check of this version and has not yet reviewed it for Bluebook compliance. Also attached is EWV's incoming brief and the decision document which is being challenged in this lawsuit.”

Shaun R. Trudeau
Attorney-Advisor

Special Assistant to the Principal Deputy
Office of General Counsel
U.S. Environmental Protection Agency
Office: 202.564.5127

From: Susan Stahle [<mailto:Stahle.Susan@epamail.epa.gov>]

Sent: Friday, October 20, 2017 4:28 PM

To: Baptist, Erik <baptist.erik@epa.gov>

Cc: Veney, Carla <Veney.Carla@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Patrick, Monique <Patrick.Monique@epa.gov>; Albores, Richard <Albores.Richard@epa.gov>; Trudeau, Shaun <Trudeau.Shaun@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; OGC CTS ARLO <OGC_CTS_ARLO@epamail.epa.gov>; Orlin, David <Orlin.David@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Ryland Li <Li.Ryland@epamail.epa.gov>

Subject: CTS Item on Ergon-West Virginia, Inc. v. EPA/Challenge to denial of small refinery exemption under RFS program needs >> ERIK BAPTIST'S (approver 1 of 1) << Approval by 10/24/2017

Susan Stahle has submitted a package with the case name/subject of Ergon-West Virginia, Inc. v. EPA/Challenge to denial of small refinery exemption under RFS program.

Please click the link below to see the routing and transmittal record for this package. After reviewing the package please:

- * go to the Routed To section;
- * route 1 line; and
- * select the Add Comments button, or the Make Decision button.

LINK -> <Notes://DCOGCLN1/FrontOff/OGCCTS.nsf/0/B869ACF32869BAFB852581BF0061A800>

Message

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent: 10/19/2017 11:44:34 AM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
Subject: Re: Follow-up on small refinery report language

Timing is an issue. I'll touch base with you this morning. I

Sent from my iPhone

On Oct 18, 2017, at 10:05 PM, Baptist, Erik <baptist.erik@epa.gov> wrote:

Mandy,

Let's discuss briefly.

Deliberative Process -- Attorney Client / Ex. 5

Deliberative Process -- Attorney Client / Ex. 5

Erik Baptist
Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Gunasekara, Mandy
Sent: Wednesday, October 18, 2017 3:00 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: Follow-up on small refinery report language

Looping in Erik – Erik, please let me know if you concur with the below. If not, we can talk further.

Deliberative Process -- Attorney Client / Ex. 5

From: Hengst, Benjamin
Sent: Thursday, October 12, 2017 3:41 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Dunham, Sarah <Dunham.Sarah@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>;

Orlin, David <Orlin.David@epa.gov>

Subject: Follow-up on small refinery report language

Mandy,

Deliberative Process / Ex. 5

Thanks
Ben

Message

From: Baptist, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10FC1B085EE14C6CB61DB378356A1EB9-BAPTIST, ER]
Sent: 10/30/2017 12:56:33 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: RE: OTAQ Petitions
Attachments: 10_19_17 DRAFT 2016 Sinclair Casper decision_mmg edits.DOCX

Mandy,

I was able to review one of the attachments. I have one comment in the attached.

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Gunasekara, Mandy
Sent: Sunday, October 29, 2017 9:24 PM
To: Baptist, Erik <baptist.erik@epa.gov>
Subject: OTAQ Petitions

Can you take a look first before I send back to the rest of the team? They are exactly the same minus references to the respective companies.

Mandy M. Gunasekara

Senior Policy Advisor for Office of Air and Radiation
Office of the Administrator
US Environmental Protection Agency

Message

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent: 10/27/2017 7:04:49 PM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
Subject: RE: In a meeting
Attachments: 10_27_17 DRAFT 2016 Sinclair Wyoming decision_mmg edit.docx

No, but two questions.
are you coming to the small refiners coalition meeting with DOE?

Deliberative Process / Ex. 5

-----Original Message-----

From: Baptist, Erik
Sent: Friday, October 27, 2017 2:59 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: In a meeting

Do you need anything immediately?

Sent from my iPhone

Message

From: Schwab, Justin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EED0F609C0944CC2BBDB05DF3A10AADB-SCHWAB, JUS]
Sent: 9/19/2017 7:31:26 PM
To: Ford, Hayley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4748a9029cf74453a20ee8ac9527830c-Ford, Hayle]
CC: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: redline of OGC's weekly report
Attachments: OGC's EPA Cabinet Report 9.19.17.docx

Please find attached.

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 9/12/2017 12:24:25 AM
To: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
Subject: FW: OGC updates to weekly cabinet report
Attachments: OGC's EPA Cabinet Report 9.11.17 (2).docx

FYI—forgot to cc.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Fotouhi, David
Sent: Monday, September 11, 2017 8:24 PM
To: Munoz, Charles <munoz.charles@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>
Subject: OGC updates to weekly cabinet report

Please find attached to this e-mail OGC's updates to the cabinet report. Thanks!

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Monson, Mahri [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE16C321270A466C90286D60E81B292C-MMONSON]
Sent: 7/18/2018 8:45:33 PM
To: Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Albores, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ce14f8709a5e4ac383af9d0b767fd8af-Ralbor02]; Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]
Subject: RE: Tuesday Weekly Report
Attachments: Tuesday Weekly Report 7.17.18.docx

Hi all,
Please find the updated internal OGC Tuesday Weekly Report attached.

Thanks!
Mahri

Mahri Monson
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-2657
Pronouns: She/Her/Hers

I am a proud member of LGBTQ+ community AND an EPA Ally. [Learn more and take the pledge here.](#)

Help eliminate environmental violations - [report tips and complaints here.](#)

Message

From: Monson, Mahri [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FE16C321270A466C90286D60E81B292C-MMONSON]
Sent: 7/11/2018 8:39:37 PM
To: Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Albores, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ce14f8709a5e4ac383af9d0b767fd8af-Ralbor02]; Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]
Subject: RE: Tuesday Weekly Report
Attachments: Tuesday Weekly Report 7.10.18.docx

Hi all,
Please find the updated internal OGC Tuesday Weekly Report attached.

Thanks!
Mahri

Mahri Monson
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-2657
Pronouns: She/Her/Hers

I am a proud member of LGBTQ+ community AND an EPA Ally. [Learn more and take the pledge here.](#)

Help eliminate environmental violations - [report tips and complaints here.](#)

Message

From: Baptist, Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=10FC1B085EE14C6CB61DB378356A1EB9-BAPTIST, ER]
Sent: 4/10/2018 1:10:03 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]
Subject: RE: OCIR Small Refinery TPs
Attachments: Small Refinery Tps.docx

Just one edit in the attached.

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Gunasekara, Mandy
Sent: Monday, April 9, 2018 10:09 PM
To: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Cc: Baptist, Erik <Baptist.Erik@epa.gov>
Subject: OCIR Small Refinery TPs

Attached are some general TPs for tomorrow's discussion. Erik, can you check my characterization of Sinclair Wyoming Refinery v. EPA? Once Erik signs-off, these are good to go. Let me know if you have any questions.

Best,
Mandy

Mandy M. Gunasekara

Principal Deputy Assistant Administrator
Office of Air and Radiation
US Environmental Protection Agency

Message

From: McKenna, Chris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4DA2E1588A1E4971AB729F6D58631BDD-CMCKENNA]
Sent: 3/20/2014 2:21:43 PM
To: Dubois, Roland [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=835458b87b574ccbb1704415df8413d1-RDUBOIS]
CC: Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]; Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]
Subject: RE: Wyoming Refining hardship lawsuit

OK, I'll check with DOE about this –

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Dubois, Roland
Sent: Wednesday, March 19, 2014 5:45 PM
To: McKenna, Chris
Cc: Bunker, Byron; Weihrauch, John
Subject: RE: Wyoming Refining hardship lawsuit

I think it would be helpful. I understand Byron's point from the phone call about

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: McKenna, Chris
Sent: Wednesday, March 19, 2014 4:13 PM
To: Dubois, Roland
Cc: Bunker, Byron; Weihrauch, John
Subject: RE: Wyoming Refining hardship lawsuit

OK, thanks for the clarification:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Dubois, Roland
Sent: Wednesday, March 19, 2014 3:59 PM
To: McKenna, Chris
Cc: Bunker, Byron; Weihrauch, John
Subject: RE: Wyoming Refining hardship lawsuit

Deliberative Process / Ex. 5

From: McKenna, Chris
Sent: Wednesday, March 19, 2014 3:40 PM
To: Dubois, Roland
Cc: Bunker, Byron; Weihrauch, John
Subject: RE: Wyoming Refining hardship lawsuit

Roland,

Deliberative Process / Ex. 5

Thanks,
Chris

From: Dubois, Roland
Sent: Monday, March 17, 2014 10:17 AM
To: Bunker, Byron
Cc: McKenna, Chris
Subject: RE: Wyoming Refining hardship lawsuit

I note the slide refers to "north america," rather than the U.S. Any reason to think that Mexico and Canada are different than the US in this respect?

Deliberative Process / Ex. 5

From: Bunker, Byron
Sent: Monday, March 17, 2014 8:57 AM
To: Dubois, Roland
Cc: McKenna, Chris
Subject: RE: Wyoming Refining hardship lawsuit

According to this source (http://www.petroclub.ro/downloads/downstream/2012/Nikolay_Kolev-A.T.KEARNEY_MANAGEMENT_CONSULTING.pdf) see slide 14, merchant refiners make up 17% of US refining capacity.

Deliberative Process / Ex. 5

small refiners.

Byron Bunker
Director Compliance Division
Office of Transportation and Air Quality
Environmental Protection Agency

2000 Traverwood Drive
Ann Arbor, MI 48105
Bunker.Byron@epa.gov
Phone: (734) 214-4155
Mobile: (734) 353-9623

From: Dubois, Roland
Sent: Sunday, March 16, 2014 9:00 PM
To: Bunker, Byron
Cc: McKenna, Chris
Subject: FW: Wyoming Refining hardship lawsuit

My responses in green below.

From: Bunker, Byron
Sent: Friday, March 14, 2014 3:52 PM
To: McKenna, Chris; Dubois, Roland
Cc: Weihrauch, John; Whitman, Peter; White, Thomas
Subject: RE: Wyoming Refining hardship lawsuit

Hi Roland,

Please see my comments below Chris's comments.

Thanks,

Byron

From: McKenna, Chris
Sent: Tuesday, March 11, 2014 6:09 PM
To: Dubois, Roland
Cc: Weihrauch, John; Bunker, Byron; Whitman, Peter; White, Thomas
Subject: RE: Wyoming Refining hardship lawsuit

Roland,

See my comments below under the points you excerpted from Wyoming's motion to expedite, I added Byron to the cc: list to get his comments.

Deliberative Process / Ex. 5

Thanks,

Chris

From: Dubois, Roland
Sent: Monday, March 10, 2014 10:29 PM
To: McKenna, Chris
Cc: Weihrauch, John
Subject: Lion Oil

Chris, my comments on the **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Some of their points include:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Orlin, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AA64DAD518D64C5F9801EB98B15B7EC3-DORLIN]
Sent: 11/21/2018 6:27:32 AM
To: Bunker, Byron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ddf7bcf023d241a9a477a2dc75d5901c-Bunker, Byron]
CC: Le, Madison [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9297d8b52bcb41319ba40d11142ab307-Le, Madison]; Weihrauch, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=74d426b7439045d9a0a65b186ea68b21-Jweihrau]; Machiele, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b71a67c326714ebbaa72eda552e55282-Machiele, Paul]; Burkholder, Dallas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=667ef175292d4784997e454a9985b3b3-Burkholder, Dallas]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Stahle, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b25318c6014d4fb985288e15143c8596-SSTAHLE]; Nelson, Karen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3492adee9fab4a02956fcf63f0de048b-Nelson, Kar]; Cohen, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d94b854e69cd4f9e80db946bf9d1c1b2-Cohen, Janet]
Subject: first draft declaration for PRUITT litigation
Attachments: PU - Declaration of Byron Bunker - draft - 11-21.doc

Attached is:

Deliberative Process; ACP / Ex. 5

Deliberative Process; ACP / Ex. 5

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Bunker, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DDF7BCF023D241A9A477A2DC75D5901C-BUNKER, BYRON]
Sent: 7/28/2017 1:04:18 PM
To: Phillip Brooks (Brooks.Phillip@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e89130d467df414390f076286d938815-Brooks, Phillip]
Subject: FW: PES options (10:30 am meeting?)
Attachments: PES - Large Refiner Exemption Option 7-27 8 pm.docx; SEH Option for Philadelphia Energy Solutions draft 7-27 730 pm.docx

From: Orlin, David
Sent: Friday, July 28, 2017 7:55 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>
Subject: FW: PES options (10:30 am meeting?)

Here are the versions we sent to Justin. We are talking to him at 10:30 am in his office/by phone (for me and Roland), and it looks like we will invite you and Mandy and Patrick Traylor

Attorney Client; Deliberative / Ex. 5

Attorney Client; Deliberative / Ex. 5

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Thursday, July 27, 2017 7:49 PM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>
Subject: FW: PES options

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

From: Orlin, David
Sent: Thursday, July 27, 2017 7:49 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Cc: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Dubois, Roland <Dubois.Roland@epa.gov>; Ryland Li (Shengzhi) (Li.Ryland@epa.gov) <Li.Ryland@epa.gov>
Subject: PES options

Justin,

Attorney Work Product; Deliberative / Ex. 5

Attorney Work Product; Deliberative / Ex. 5

Thanks,

David Orlin
U.S. EPA, Office of General Counsel
(202) 564-1222

Message

From: Gunasekara.Mandy@epa.gov [Gunasekara.Mandy@epa.gov]
Sent: 12/15/2018 11:51:41 AM
To: Yunaska, Kyle [Kyle.Yunaska@hq.doe.gov]
CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Re: RFS Small Refinery Exemption Waiver

Hey Kyle,
Hope you are well and yes, we are the best contacts for that issue.

Sent from my iPhone

> On Dec 14, 2018, at 12:20 PM, Yunaska, Kyle <Kyle.Yunaska@hq.doe.gov> wrote:
>
> Hi Mandy and Alex,
>
> It has been a long time. I wanted to reach out to see if you are both still the best contacts for the small refinery exemption waiver process. Thanks and have a great weekend.
>
> Kyle
>
> Kyle R. Yunaska
> Senior Advisor and Chief of Staff
> U.S. Department of Energy, Office of Policy
>
>

Message

From: Nelson, Karen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3492ADEE9FAB4A02956FCF63F0DE048B-NELSON, KAR]
Sent: 10/2/2017 6:22:41 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: RFS Small Refinery Hardship Report to Congress

Hi Tia!

I spoke with Janet this morning after the meeting with Chris, and I volunteered to put together an outline of the kinds of things that we will need to include in the reports to Congress that we now have to write when we disagree with DOE's recommendation.

Deliberative Process / Ex. 5

Thanks Tia! Talk to you later!

Thank you for your time.

Sincerely,
Karen Nelson
Compliance Division
(734) 214-4657

Message

From: Sutton, Tia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25E87403F63143ACBB959446512A372C-SUTTON, TIA]
Sent: 8/2/2018 7:54:58 PM
To: Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]
Subject: FW: Materials for Friday's 2:30 RFS briefing
Attachments: RFS for Acting Administrator Wheeler, August 3 2018.pptx

From: Hengst, Benjamin
Sent: Thursday, August 02, 2018 3:47 PM
To: OAR Briefings <OAR_Briefings@epa.gov>
Cc: Sutton, Tia <sutton.tia@epa.gov>
Subject: Materials for Friday's 2:30 RFS briefing

Please see attached and forward to the Administrator's office as needed. Mandy has reviewed this already and this version incorporates her changes (all made last week).

Thanks
Ben

Message

From: Sutton, Tia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25E87403F63143ACBB959446512A372C-SUTTON, TIA]
Sent: 4/24/2018 8:15:01 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
Subject: Draft agenda for CG weekly
Attachments: Agenda for Fuels Weekly with Chris 4-25-18.docx

Here's what I wrote down from the 11am for agenda items for tmrw. And a special presentation that must stay on the agenda.

Message

From: Sutton, Tia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25E87403F63143ACBB959446512A372C-SUTTON, TIA]
Sent: 4/4/2018 4:43:52 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
Subject: RE: Small refinery hardship numbers

Word.

From: Hengst, Benjamin
Sent: Wednesday, April 04, 2018 12:43 PM
To: Sutton, Tia <sutton.tia@epa.gov>
Subject: Re: Small refinery hardship numbers

Whatever you judge is appropriate is fine with me, as long as they know about Mandy's hold.

On Apr 4, 2018, at 12:34 PM, Sutton, Tia <sutton.tia@epa.gov> wrote:

I told OCIR I would get back to them once you connected with BW. Should I just forward this note (and the draft FOIA response) to OCIR, and let them know that if they'd like to use the response for inquiries they receive, they should have Christian/Aaron check with Mandy first?

As with the last time we were told to hold, OCIR definitely won't want to get out in front of OAR/OPA, but if they are later pressed by Hill folks might be good for them to know the state of play here and who to go to in OAR...

From: Hengst, Benjamin
Sent: Tuesday, April 03, 2018 7:46 PM
To: Cohen, Janet <cohen.janet@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Stahle, Susan <Stahle.Susan@epa.gov>; Bunker, Byron <bunker.byron@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>; Michaels, Lauren <Michaels.Lauren@epa.gov>; Machiele, Paul <machiele.paul@epa.gov>; Burkholder, Dallas <burkholder.dallas@epa.gov>; Parsons, Nick <Parsons.Nick@epa.gov>; Li, Ryland (Shengzhi) <Li.Ryland@epa.gov>; Nelson, Karen <nelson.karen@epa.gov>; McKenna, Chris <McKenna.Chris@epa.gov>
Subject: Fwd: Small refinery hardship numbers

Begin forwarded message:

From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>
Date: April 3, 2018 at 6:27:33 PM EDT
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Cc: "Hengst, Benjamin" <Hengst.Benjamin@epa.gov>, "Grundler, Christopher" <grundler.christopher@epa.gov>, "Millet, John" <Millet.John@epa.gov>, "Orlin, David" <Orlin.David@epa.gov>
Subject: Re: Small refinery hardship numbers

Ben,
Please have the team hold on sending this out for the time being.

Thanks,
Mandy

Sent from my iPhone

On Apr 3, 2018, at 6:09 PM, Wehrum, Bill <Wehrum.Bill@epa.gov> wrote:

Thanks Ben.

From: Hengst, Benjamin
Sent: Tuesday, April 3, 2018 6:05 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Cc: Grundler, Christopher <grundler.christopher@epa.gov>;
Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Millett, John
<Millett.John@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: Small refinery hardship numbers

Bill:

This is a follow-up to your email regarding information we can share with press outlets on the small refinery decisions.

As mentioned, we are about to send out a response to a FOIA request on this topic (we aim to send this out tomorrow). I have attached that FOIA response, as it has been vetted by our team and OGC for any CBI concerns. From our perspective, you can share the information in this response (e.g., cut and paste the heart of the document, with the numbers). Doing so should largely address the reporters' inquiries.

Thanks,

Ben

Message

Sent: 7/30/2018 9:18:24 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]
Subject: Small refinery hardship letter from Sens. Thune, Grassley, et al.
Attachments: AL-18-000-6271_Thune et al.pdf; AL-18-000-6413_Grassley.pdf; Signed Letter to The Honorable Charles E. Grassley and 12 colleagues.pdf

Hi Mandy,

Attached is the letter from Sens. Thune to the President on RFS small refinery hardships. As we mentioned, all 5 of the Senators on this letter were also on the Sen Grassley letter, so they received the previous response that was sent out (the Grassley incoming letter & response are also attached here).

So we're just looking for a little guidance on how to handle this letter – or if it should instead be controlled to OAR (or the OA), based on the additional info you mentioned regarding the letter.

We have started moving the other SRE letters through to OAR, and we have used the same general approach as the Grassley response at this point, so please do let us know if we should change that approach as you start getting the letters in for OAR review.

Thanks,
Tia

Message

Sent: 11/21/2017 3:26:59 PM
To: Meekins, Tanya [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b7f46e8a314b46d190b600593fcf4ad3-tmeekins]; Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]
CC: Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]; Argyropoulos, Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0149b93d2780437a9c2b6d8477df7991-pargyrop]
Subject: RE: Small Refinery Hardship letter from Perkins Coie

Minus Janet, plus our crew.

Since this is a petition, I'm wondering what our next steps are for this – we'll just want to figure out at some point when

From: Meekins, Tanya
Sent: Thursday, November 16, 2017 10:22 AM
To: Cohen, Janet <cohen.janet@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Sutton, Tia <sutton.tia@epa.gov>
Subject: Small Refinery Hardship letter from Perkins Coie

This letter came into Chris Grundler. Attached is a copy for your records.

Tanya Meekins
Office of Transportation
And Air Quality
202-564-6002

Message

From: Nelson, Karen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3492ADEE9FAB4A02956FCF63F0DE048B-NELSON, KAR]
Sent: 7/25/2018 3:27:56 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Cohen, Janet [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d94b854e69cd4f9e80db946bf9d1c1b2-Cohen, Janet]
Subject: RE: SRE - Davis Letter for review
Attachments: DRAFT_Rep Davis 4.26.18_AL-18-000-6890.docx

Ok, fixed that typo. Thanks Tia!

From: Sutton, Tia
Sent: Wednesday, July 25, 2018 11:26 AM
To: Nelson, Karen <nelson.karen@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>
Subject: RE: SRE - Davis Letter for review

Looks good to me! One super small edit (beginning of 3rd paragraph should say "Your" not "You"), but otherwise I think this is consistent with what we've previously said, and also responsive to the incoming.

Janet- all yours!!

From: Nelson, Karen
Sent: Wednesday, July 25, 2018 11:12 AM
To: Sutton, Tia <sutton.tia@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>
Subject: SRE - Davis Letter for review

Hi Tia and Janet,

I took out the paragraph that was meant to address the cease and desist part of the letter. So now this follows the original Grassley letter almost exactly – with only the addition of 2015 aggregate numbers and an update for the 2018 petitions we've received.

Thank you for your time.

Sincerely,
Karen Nelson
Compliance Division
(734) 214-4657

Message

From: Thundiyil, Karen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25CFC85ADC76406DB1DDF8A5232EB5E8-KTHUNDIY]
Sent: 4/18/2018 4:43:21 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: RE: Small refinery stuff
Flag: Follow up

Hi Tia,

I have a few questions...but you might be busy now since Julia is out of the office today, so no immediate rush:

-Slide 5: *But the total volume of renewable fuel required to be sold in each calendar year must be unaffected by this small refinery exemption*

Is that still the case?

-Slide 5: *EPA must extend the exemption for at least 2 years for the small refinery*

Is this still the case?

I didn't fully understand the Venn diagram on Slide 10.

-Slide 21: Is there an annual requirement for refiners to adjust their product to comply with Tier 3 or other obligations?

I do think a briefing for Aaron and Christian would be helpful, but I'll confirm later today. What would your timing be like if they wanted a briefing?

Thank you.

Karen.

From: Sutton, Tia
Sent: Monday, April 16, 2018 6:58 PM
To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Subject: Re: Small refinery stuff

On RVP, not yet- I put it on the list for tomorrow's fuels team mtg. It's been hard to track my boss down lately!

And I know the small refiner/refinery stuff is a LOT to digest! I've been living this for 10+ yrs, so just give me a shout if you wanna talk through any of it.

Sent from my iPhone

On Apr 16, 2018, at 6:50 PM, Thundiyil, Karen <Thundiyil.Karen@epa.gov> wrote:

THANK YOU!
Any word on the RVP waiver?

From: Sutton, Tia
Sent: Monday, April 16, 2018 5:19 PM
To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Subject: Small refinery stuff

Hi Karen,

While we figure things out with respect to whether or not we can send responses publicly on the recent inquiries that we have in the queue, I did want to send you the background items I promised you.

First, the language from the RFS2 final rule on small refinery & small refiner hardship:

<https://www.gpo.gov/fdsys/pkg/FR-2010-03-26/pdf/2010-3851.pdf>

Specifically, Section III.E – “Small Refinery and Small Refiner Flexibilities” (75 FR 14736-14739), and particularly Section III.E.4 “Ability To Grant Relief Beyond 211(o)(9)” (14736). The description of our SBREFA Panel process is section XI.C (14858) – which is specific to small refiners only.

And second, attached is a briefing that we gave to SBA & OMB in November 2015. This briefing is quite ‘inside baseball’, so do let me know if Christian or Aaron would like a staff briefing to walk through this...or just want to know what the heck all of the acronyms are! The backstory on this is that SBA raised some questions during the Interagency process of the RFS 2014-16 Final Rule about small refineries, and I had recently written a tech amendment rule on Tier 3 where OMB was getting the small refiner/refinery thing confused (per the very last slide) – so we offered both of them a briefing to walk through everything and try to answer questions. (Please note that this was written in early Nov 2015, so the “current” info has changed but the background is still the same; also, this contains CBI, so it should not be sent out past OCIR.)

I’ll be in touch on next steps as soon as I know more!

-Tia

Message

From: Wolfe, Michael [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1E7F57A806D7482A9296DA8928448691-MWOLFE]
Sent: 4/23/2018 2:17:12 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
CC: LaRue, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae0438503e444d7583eac7fb573df03-Larue, Steve]
Subject: FW: FY 17 Small Refinery Relief Reporting Requirement - OCFO request for status update

Just fyi

From: Lewis, Josh
Sent: Monday, April 23, 2018 10:13 AM
To: Wolfe, Michael <Wolfe.Michael@epa.gov>
Cc: Walters, Margaret <Walters.Margaret@epa.gov>; LaRue, Steven <LaRue.Steven@epa.gov>; Hyde, Courtney <Hyde.Courtney@epa.gov>
Subject: RE: FY 17 Small Refinery Relief Reporting Requirement - OCFO request for status update

Had a chance to mention this to Bill this am. He agreed "Has not been triggered" is still accurate

From: Wolfe, Michael
Sent: Tuesday, April 03, 2018 3:15 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Walters, Margaret <Walters.Margaret@epa.gov>; LaRue, Steven <LaRue.Steven@epa.gov>; Hyde, Courtney <Hyde.Courtney@epa.gov>
Subject: FY 17 Small Refinery Relief Reporting Requirement - OCFO request for status update

Hi Josh,

Per our discussion, can you please check with Mandy about the update that we should provide to OCFO for the FY 17 reporting requirement related to small refinery relief? (Attached below is the current entry in OCFO's database.)

Please let me know if you have any questions.

Thanks,
Mike

Report Heading	Office	Language	Due to Congress	Previous Update	Update as of 3/30/2018
Small Refinery Relief	OAR	When making decisions about small refinery exemptions under the RFS program, the Agency is directed to follow DOE's recommendations which are to be based on the original 2011 Small Refinery Exemption Study prepared for Congress and the conference report to division D of the Consolidated Appropriations Act of 2016. Should the Administrator disagree with a waiver recommendation from the Secretary of Energy, either to approve or deny, the Agency shall provide a report to the Committee on Appropriations and to the	Provided 10 Days Prior to Issuing a Decision on a Waiver Petition.	Has not been triggered	

		Secretary of Energy that explains the Agency position. Such report shall be provided 10 days prior to issuing a decision on a waiver petition.			
--	--	------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 2/6/2018 2:08:23 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: FW: CRS request: small refinery exemptions

From: Hengst, Benjamin
Sent: Tuesday, February 06, 2018 9:08 AM
To: Mandy Gunasekara (Gunasekara.Mandy@epa.gov) <Gunasekara.Mandy@epa.gov>
Subject: FW: CRS request: small refinery exemptions

Hi Mandy—just wanted to share this with you as an FYI. You'll remember that in previous weeks Reuters asked us to confirm the number of small refinery petition requests before the Agency. Now CRS is asking too. Tia, in my office, sent our statement down to OCIR staff yesterday. We think this information is fine to release, but as before we wanted to make sure you were in the loop. You may want to reach out to your counterparts in OCIR.

The incoming CRS request is below.

Thanks
Ben

From: Sutton, Tia
Sent: Monday, February 05, 2018 12:42 PM
To: Haman, Patricia <Haman.Patricia@epa.gov>; Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: CRS request: small refinery exemptions

Pat and Karen,

We received a few inquiries following this Reuters article, and sent the draft statement below to OPA to use in responding. We let OPA make the call on whether or not to respond – and we have now confirmed that OPA only responded to inquiries so far with “No comment,” but wanted to make sure that you had the statement as well. We will defer to OCIR on whether or not to send the statement to Kelsi in response to her inquiry.

Ben – looping you here for awareness, please forward to others as you see fit.

Thanks,
Tia

Draft Statement:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

More information on Small Refinery exemptions under the RFS program can be found here: <https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-exemptions-small-refineries>

From: Haman, Patricia

Sent: Monday, February 05, 2018 11:09 AM

To: Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>

Cc: Thundiyil, Karen <Thundiyil.Karen@epa.gov>

Subject: FW: CRS request: small refinery exemptions

Good Morning, Kelsi from CRS sent the note below a few minutes ago. Please let me know how you would like me to respond.

Thank you. Pat

Patricia E. Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806

Hi Pat,

I hope your 2018 is off to a great start.

I am working on a request for congressional staff and would appreciate a response to the three questions below by COB today.

- Does EPA disclose the number of RFS small refinery petitions under consideration to the general public?
- Has EPA disclosed this information in previous years to the general public?
- What is the EPA protocol for disclosing such information?

A Reuters article, *[Exclusive: U.S. small refiners make surge of biofuel waiver requests – sources](#)*, reports that “Sources familiar with the matter said the EPA was currently reviewing 27 waiver applications from small refineries, covering multiple years.”

Please contact me if you have any questions about this request.

Thanks,
Kelsi

Message

From: Thundiyil, Karen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=25CFC85ADC76406DB1DDF8A5232EB5E8-KTHUNDIY]
Sent: 2/22/2018 7:56:14 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]
Subject: Re: draft language

Thank you!

On Feb 22, 2018, at 2:34 PM, Sutton, Tia <sutton.tia@epa.gov> wrote:

No prob! And I've pumped Argy with chocolate- hopefully he'll play nice! :-)

Sent from my iPhone

On Feb 22, 2018, at 2:10 PM, Thundiyil, Karen <Thundiyil.Karen@epa.gov> wrote:

Perfect. Thank you!!

From: Sutton, Tia
Sent: Thursday, February 22, 2018 2:09 PM
To: Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Subject: Re: draft language

Hey Karen,
Made a few edits in the below, but doing by phone, so didn't do in track changes or anything:

Deliberative Process / Ex. 5

Sent from my iPhone

On Feb 22, 2018, at 1:28 PM, Thundiyil, Karen <Thundiyil.Karen@epa.gov> wrote:

Hi Tia,

Let me know what edits you might have. Thank you for your quick review!

Deliberative Process / Ex. 5

Message

From: Hengst, Benjamin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C414E2BF04A246BB987D88498EEFF06-HENGST, BENJAMIN]
Sent: 2/5/2018 5:45:54 PM
To: Sutton, Tia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25e87403f63143acbb959446512a372c-Sutton, Tia]; Haman, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0ebb27cd881d41b19a30a491dc3f3f57-phaman]; Thundiyil, Karen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25cfc85adc76406db1ddf8a5232eb5e8-KTHUNDIY]
CC: Burch, Julia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=27b0cd43b0404bab89aef0c8d08c165f-Burch, Julia]
Subject: RE: CRS request: small refinery exemptions

Hi folks—I'll be sharing this with Mandy, FYI. She may reach out to OCIR management. I know Mandy has expressed an interest in keeping tabs on this.

From: Sutton, Tia
Sent: Monday, February 05, 2018 12:42 PM
To: Haman, Patricia <Haman.Patricia@epa.gov>; Thundiyil, Karen <Thundiyil.Karen@epa.gov>
Cc: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>
Subject: RE: CRS request: small refinery exemptions

Pat and Karen,

We received a few inquiries following this Reuters article, and sent the draft statement below to OPA to use in responding. We let OPA make the call on whether or not to respond – and we have now confirmed that OPA only responded to inquiries so far with “No comment,” but wanted to make sure that you had the statement as well. We will defer to OCIR on whether or not to send the statement to Kelsi in response to her inquiry.

Ben – looping you here for awareness, please forward to others as you see fit.

Thanks,
Tia

Draft Statement:

Deliberative Process / Ex. 5

More information on Small Refinery exemptions under the RFS program can be found here: <https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-standard-exemptions-small-refineries>

From: Haman, Patricia
Sent: Monday, February 05, 2018 11:09 AM

To: Sutton, Tia <sutton.tia@epa.gov>; Burch, Julia <Burch.Julia@epa.gov>

Cc: Thundiyil, Karen <Thundiyil.Karen@epa.gov>

Subject: FW: CRS request: small refinery exemptions

Good Morning, Kelsi from CRS sent the note below a few minutes ago. Please let me know how you would like me to respond.

Thank you. Pat

Patricia E. Haman
Office of Congressional Affairs
U.S. EPA
202-564-2806

Hi Pat,

I hope your 2018 is off to a great start.

I am working on a request for congressional staff and would appreciate a response to the three questions below by COB today.

- Does EPA disclose the number of RFS small refinery petitions under consideration to the general public?
- Has EPA disclosed this information in previous years to the general public?
- What is the EPA protocol for disclosing such information?

A Reuters article, *[Exclusive: U.S. small refiners make surge of biofuel waiver requests – sources](#)*, reports that “Sources familiar with the matter said the EPA was currently reviewing 27 waiver applications from small refineries, covering multiple years.”

Please contact me if you have any questions about this request.

Thanks,
Kelsi

Subject: RFS hrg follow-up Q&As
To: CN=Don Zinger/OU=DC/O=USEPA/C=US@EPA
Cc: CN=Paul Argyropoulos/OU=DC/O=USEPA/C=US@EPA CN=Diann
Frantz/OU=DC/O=USEPA/C=US@EPA CN=John Hannon/OU=DC/O=USEPA/C=US@EPA CN=Roland
Dubois/OU=DC/O=USEPA/C=US@EPA
From: CN=Nancy Ketcham-Colwill/OU=DC/O=USEPA/C=US
Submit Time: 2/27/2008 03:47:47

Don -- For your reviewing pleasure, here are draft answers to the questions posed by Senators Bingaman and Barrasso following Bob's RFS hearing. These reflect OGC's review and helpful comments. Our answers were due on Monday, so we're not too far behind yet! These will be for Bob's signature.



RFS SENR Hrg.followup Q-A v6.kc -pa -jh226.doc RFS SENR Hrg.followup Q-A v6.kc -pa -jh226.doc

[refinery address]

Dear Mr. XXXXXXXX:

As you know, small refineries¹ were exempt from being obligated parties under the Renewable Fuel Standard (RFS) program through December 31, 2010. In addition, under Clean Air Act Section 211(o)(9)(A)(ii), this exemption can be extended through a study conducted by the Department of Energy (DOE) to determine whether compliance with the standards would impose a disproportionate economic hardship on small refineries. Insofar as the study concluded that any small refinery would face disproportionate economic hardship, EPA is required to extend the exemption for the small refinery for a period of not less than two additional years.

DOE completed an initial small refinery study, "EPACT 2005 Section 1501 Small Refineries Exemption Study," on February 25, 2009 which concluded that small refineries would not suffer disproportionate economic hardship under the RFS program. Subsequently, Congress directed DOE to revise the study. For the revised study, DOE was to take into consideration additional information from small refineries.

On April 22, 2011, DOE transmitted its revised small refinery study to EPA. Of the twenty-five refineries who responded to the survey they received from DOE with information on their current circumstances, thirteen were determined by DOE to be small refineries that would experience disproportionate economic hardship if subject to the standards. Your facility at [XXXXXXXXXX] is one of these thirteen small refineries. Therefore, as specified in CAA section 211(o)(9)(A)(ii), EPA is extending the small refinery exemption for your facility at [XXXXXXXXXX]. We do not believe that the DOE study provides a basis for extending the exemption applicable to your facility beyond the two-year minimum required by the statute. The information collected from you by DOE through its survey, and the subsequent analysis of that information, was sufficient only to make a near-term finding of disproportionate economic hardship. The relief provided by the extension of the exemption provides both additional leadtime and economic assistance for you to prepare to be an obligated party when your exemption ends.

The two-year extension of the small refinery exemption that we are granting for your facility at [XXXXXXXXXXXXXXXXXX] means that none of the gasoline or diesel production at this facility in calendar years 2011 or 2012 will be subject to the percentage standards that apply to obligated parties, unless you notify us that you are waiving the exemption.

Thank you for your continued support of the RFS program. If you should have any questions, please feel free to contact me or David Korotney of my staff at (734) 214-4507.

¹ Defined as a refinery for which the average aggregate daily crude oil throughput (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) did not exceed 75,000 barrels.

Sincerely,

Margo T. Oge
Director
Office of Transportation and Air Quality

[refinery address]

Dear Mr. XXXXXXXX:

As you know, small refineries¹ were exempt from being obligated parties under the Renewable Fuel Standard (RFS) program through December 31, 2010. In addition, under Clean Air Act Sections 211(o)(9)(A)(ii) and (B), this exemption can be extended through one of two mechanisms:

1. A study conducted by the Department of Energy (DOE) to determine whether compliance with the standards would impose a disproportionate economic hardship on small refineries. Insofar as the study concluded that any small refinery would face disproportionate economic hardship, EPA is required to extend the exemption for the small refinery for a period of not less than 2 additional years.
2. A small refinery may at any time petition the EPA for an extension of the exemption for the reason of disproportionate economic hardship. In evaluating such petitions, EPA must consult with the Secretary of Energy, and must consider the findings of the DOE study and other economic factors.

DOE completed an initial small refinery study, "EPACT 2005 Section 1501 Small Refineries Exemption Study," on February 25, 2009 which concluded that small refineries would not suffer disproportionate economic hardship under the RFS program. Subsequently, Congress directed DOE to revise the study. For the revised study, DOE was to take into consideration additional information from small refineries.

On April 22, 2011, DOE transmitted its revised small refinery study to EPA. Of the twenty-five refineries who responded to the survey they received from DOE with information on their current circumstances, thirteen were determined by DOE to be small refineries that would experience disproportionate economic hardship if subject to the standards. Your facility at [XXXXXXXXXX] is one of these thirteen small refineries. Therefore, as specified in CAA section 211(o)(9)(A)(ii), EPA is extending the small refinery exemption for your facility at [XXXXXXXXXX]. We do not believe that the DOE study provides a basis for extending the exemption applicable to your facility beyond the two-year minimum required by the statute. The information collected from you by DOE through its survey, and the subsequent analysis of that information, was sufficient only to make a near-term finding of disproportionate economic hardship.

You also submitted a separate petition to the EPA to request an exemption due to disproportionate economic hardship. When evaluating such petitions EPA must consult with the Secretary of Energy, and must consider the findings of the DOE study and other economic factors. We are currently reviewing your petition in light of these requirements, and will respond shortly with a determination regarding the impact, if any, of your petition on the extension of your exemption.

¹ Defined as a refinery for which the average aggregate daily crude oil throughput (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) did not exceed 75,000 barrels.

The two-year extension of the small refinery exemption that we are granting for your facility at [XXXXXXXXXXXXXXXXXX] means that none of the gasoline or diesel production at this facility in calendar years 2011 or 2012 will be subject to the percentage standards that apply to obligated parties, unless you notify us that you are waiving the exemption.

Thank you for your continued support of the RFS program. If you should have any questions, please feel free to contact me or David Korotney of my staff at (734) 214-4507.

Sincerely,

Margo T. Oge
Director
Office of Transportation and Air Quality

Subject: Re: RFS small refiner clarification
To: CN=Lori Stewart/OU=DC/O=USEPA/C=US@EPA
Cc: CN=Paul Machiele/OU=AA/O=USEPA/C=US@EPA CN=Paul
Argyropoulos/OU=DC/O=USEPA/C=US@EPA CN=John Weihrauch/OU=DC/O=USEPA/C=US@EPA
CN=Karl Simon/OU=DC/O=USEPA/C=US@EPA
From: CN=Tia Sutton/OU=AA/O=USEPA/C=US
Submit Time: 4/5/2011 17:18:55

Hi all,

I've added a little extra on Deliberative Process / Ex. 5 I also included background from the preamble in two spots (language that starts with "NOTE" in italicized, non-bold font)- not saying that this needs to be included, but I just wanted you to have the background (and where to find it in the preamble) if a question comes up and you need to respond to Gina quickly.

Feel free to edit as you see fit.

Call if you have any questions,
-Tia

Additional Information on the Renewable Fuel Standard and Small



Refiners_tls.docx Additional Information on the Renewable Fuel Standard and Small Refiners_tls.docx

Lori Stewart---04/05/2011 12:38:51 PM---Thanks for taking a look at this Tia.

From: Lori Stewart/DC/USEPA/US
To: Tia Sutton/AA/USEPA/US@EPA
Cc: Paul Machiele/AA/USEPA/US@EPA
Date: 04/05/2011 12:38 PM
Subject: RFS small refiner clarification

Thanks for taking a look at this Tia.

[attachment "Additional Informatin on the Renewable Fuel Standard and Small Refiners.docx" deleted by Tia Sutton/AA/USEPA/US]

Subject: Re: Fw: Draft Responses to EISA / RFS 2 Hearing Questions
To: CN=Paul Argyropoulos/OU=DC/O=USEPA/C=US@EPA
Cc: CN=Diann Frantz/OU=DC/O=USEPA/C=US@EPA zinger.don@epa.gov CN=Roland Dubois/OU=DC/O=USEPA/C=US@EPA CN=John Hannon/OU=DC/O=USEPA/C=US@EPA
From: CN=Nancy Ketcham-Colwill/OU=DC/O=USEPA/C=US
Submit Time: 2/21/2008 23:16:10

So you, too, have fallen prey to the other lurking Ketcham-Colwill in the address book!

I did have several comments and a few concerns with our answers to the Bingaman Qs. (I haven't had a chance to get to the other set.)

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

John and Roland -- Could you please look over my comments, too? I hazarded a few guesses on what the law provides.



RFS SENR Hrg.followup Q-A v6.kc.doc RFS SENR Hrg.followup Q-A v6.kc.doc
Paul Argyropoulos/DC/USEPA/US

Paul Argyropoulos/DC/USEPA/US

02/21/2008 03:22 PM

ToNancy Ketcham-Colwill/DC/USEPA/US@EPA

ccDiann Frantz/DC/USEPA/US@EPA,
zinger.don@epa.gov

SubjectFw: Draft Responses to EISA / RFS 2 Hearing Questions

Nancy,

I sent this to Jim by mistake this morning. I need to wait to make sure "Nancy" pops up in the "TO" line.

Anyway, Here's an updated version. Just a couple of edits.



Q-A Senate ENR RFS 2 Hearing v6a.doc Q-A Senate ENR RFS 2 Hearing v6a.doc

Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation & Air Quality
US Environmental Protection Agency
Office Phone: 1-202-564-1123
Mobile: 202-577-9354
Email: argyropoulos.paul@epa.gov

----- Forwarded by Paul Argyropoulos/DC/USEPA/US on 02/21/2008 03:18 PM -----

Paul Argyropoulos/DC/USEPA/US

02/21/2008 10:23 AM

To Jim Ketcham-Colwill/DC/USEPA/US

cc Diann Frantz/DC/USEPA/US@EPA

Subject Draft Responses to EISA / RFS 2 Hearing Questions

Nancy and Diann,

I've attached the draft responses we prepared to the post EISA / RFS 2 Senate ENR Hearing. Please let me know if you have any questions.

Thanks, Paul



Q-A Senate ENR RFS 2 Hearing v6.doc Q-A Senate ENR RFS 2 Hearing v6.doc

Paul N. Argyropoulos
Senior Policy Advisor
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US Environmental Protection Agency
Office Phone: 1-202-564-1123
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Email: argyropoulos.paul@epa.gov

Submit Time: 6/7/2011 18:05:39
From: CN=Paul Argyropoulos/OU=DC/O=USEPA/C=US
To: CN=Christopher Grundler/OU=AA/O=USEPA/C=US@EPA
Cc:
Subject: Re: Staff mtg assignment

Deliberative Process / Ex. 5

Alex's graduation was great. The weather was excellent and everything went off well. Definitely a few moments here and there (even now) where the chest gets tight in reflection and in thoughts of him going away in just a few short months. I hear this will eventually pass

How about you?

Paul N. Argyropoulos
Senior Policy Advisor
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Website: www.epa.gov/otaq

Christopher Grundler---06/07/2011 01:57:22 PM---Am not clear exactly what my/our assignment was wrt rfs exemption from this morning.....pls tell me

From: Christopher Grundler/AA/USEPA/US
To: Paul Argyropoulos/DC/USEPA/US
Date: 06/07/2011 01:57 PM
Subject: Staff mtg assignment

Am not clear exactly what my/our assignment was wrt rfs exemption from this morning.....pls tell me!

Also, how was alex's graduation? Any tears big guy?!

Sent with my iPad2

----- Original Message -----

From : Paul Argyropoulos/DC/USEPA/US
To : Margo Oge/DC/USEPA/US@EPA
Cc : Christopher Grundler/AA/USEPA/US@EPA, David Korotney/AA/USEPA/US@EPA, Karen Orehowsky/DC/USEPA/US@EPA, Karl Simon/DC/USEPA/US@EPA, Lori Stewart/DC/USEPA/US@EPA
Sent on : 06/07/2011 01:54:08 PM
Subject : Revised DRAFT NOTE to GINA re: Clearance of 2 Packages from OMB

Revised DRAFT NOTE TO GINA

Gina,

Deliberative Process / Ex. 5

Margo

Submit Time: 4/29/2011 17:06:03
From: CN=Paul Argyropoulos/OU=DC/O=USEPA/C=US
To: CN=David Korotney/OU=AA/O=USEPA/C=US@EPA
Cc: CN=Tia Sutton/OU=AA/O=USEPA/C=US@EPA CN=John Hannon/OU=DC/O=USEPA/C=US@EPA CN=Paul Machiele/OU=AA/O=USEPA/C=US@EPA
Subject: Re: Background / Summary statements on DOE study -- any thoughts?

Thanks.

Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation & Air Quality
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Email: argyropoulos.paul@epa.gov
Website: www.epa.gov/otaq

David Korotney---04/29/2011 01:02:16 PM---A few more edits in green.

From: David Korotney/AA/USEPA/US
To: Tia Sutton/AA/USEPA/US@EPA
Cc: John Hannon/DC/USEPA/US@EPA, Paul Argyropoulos/DC/USEPA/US@EPA, Paul Machiele/AA/USEPA/US@EPA
Date: 04/29/2011 01:02 PM
Subject: Re: Background / Summary statements on DOE study -- any thoughts?

A few more edits in green.

Tia Sutton---04/29/2011 12:24:10 PM---Some edits from me in red, and comments/notes in blue bracketed text.

From: Tia Sutton/AA/USEPA/US
To: Paul Argyropoulos/DC/USEPA/US@EPA
Cc: David Korotney/AA/USEPA/US@EPA, John Hannon/DC/USEPA/US@EPA, Paul Machiele/AA/USEPA/US@EPA
Date: 04/29/2011 12:24 PM
Subject: Re: Background / Summary statements on DOE study -- any thoughts?

Some edits from me in red, and comments/notes in blue bracketed text.

Paul Argyropoulos---04/29/2011 11:00:07 AM---RFS Small Refinery DOE Study - Background
Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Paul Argyropoulos/DC/USEPA/US

To: David Korotney/AA/USEPA/US@EPA, Paul Machiele/AA/USEPA/US@EPA, Tia Sutton/AA/USEPA/US@EPA, John Hannon/DC/USEPA/US@EPA

Date: 04/29/2011 11:00 AM

Subject: Background / Summary statements on DOE study -- any thoughts?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation & Air Quality
US Environmental Protection Agency
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Website: www.epa.gov/otaq

Submit Time: 6/23/2011 12:43:43
From: CN=Paul Argyropoulos/OU=DC/O=USEPA/C=US
To: CN=Patricia Shaffer/OU=DC/O=USEPA/C=US@EPA
Cc:
Subject: Please Print for the 11:15 meeting -----Thanks.....Fw: Small refinery briefing for today's RFS2 Update with Margo

Paul N. Argyropoulos
Senior Policy Advisor
Office of Transportation & Air Quality
US Environmental Protection Agency
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Email: argyropoulos.paul@epa.gov
Website: www.epa.gov/otaq

----- Forwarded by Paul Argyropoulos/DC/USEPA/US on 06/23/2011 08:43 AM -----

From: David Korotney/AA/USEPA/US
To: Paul Argyropoulos/DC/USEPA/US@EPA, Barry Garelick/DC/USEPA/US@EPA, Benjamin Hengst/DC/USEPA/US@EPA, Christopher Grundler/AA/USEPA/US@EPA, Jim Caldwell/DC/USEPA/US@EPA, John Hannon/DC/USEPA/US@EPA, John Weihrauch/DC/USEPA/US@EPA, Karen Laughlin/DC/USEPA/US@EPA, Karen Orehowsky/DC/USEPA/US@EPA, Karl Simon/DC/USEPA/US@EPA, Lori Stewart/DC/USEPA/US@EPA, Madison Le/DC/USEPA/US@EPA, Maureen Delaney/DC/USEPA/US@EPA, Meg McCarthy/DC/USEPA/US@EPA, Paul Machiele/AA/USEPA/US@EPA, Robert Larson/AA/USEPA/US@EPA, Roland Dubois/DC/USEPA/US@EPA, Vincent Camobreco/DC/USEPA/US@EPA, Chris McKenna/DC/USEPA/US@EPA, Tia Sutton/AA/USEPA/US@EPA
Date: 06/23/2011 08:34 AM
Subject: Small refinery briefing for today's RFS2 Update with Margo



Margo - DOE Small Refinery study - denials ver 3.pptx Margo - DOE Small Refinery study - denials ver 3.pptx

Paul Argyropoulos---06/22/2011 04:09:49 PM---Team, Simplified Agenda for Tomorrows RFS2 Meeting with Margo. To those preparing materials, please

From: Paul Argyropoulos/DC/USEPA/US
To: Barry Garelick/DC/USEPA/US@EPA, Benjamin Hengst/DC/USEPA/US@EPA, france.chet@epa.gov, Christopher Grundler/AA/USEPA/US@EPA, David Korotney/AA/USEPA/US@EPA, John Hannon/DC/USEPA/US@EPA, John Weihrauch/DC/USEPA/US@EPA, Karen Laughlin/DC/USEPA/US@EPA, Karen Orehowsky/DC/USEPA/US@EPA, Karl Simon/DC/USEPA/US@EPA, Lori Stewart/DC/USEPA/US@EPA, Madison Le/DC/USEPA/US@EPA, Maureen Delaney/DC/USEPA/US@EPA, Meg McCarthy/DC/USEPA/US@EPA, Paul Machiele/AA/USEPA/US@EPA, Robert Larson/AA/USEPA/US@EPA, Roland Dubois/DC/USEPA/US@EPA, Sarah Dunham/DC/USEPA/US@EPA, Vincent Camobreco/DC/USEPA/US@EPA
Cc: Madison Le/DC/USEPA/US@EPA, Jim Caldwell/DC/USEPA/US@EPA

Date: 06/22/2011 04:09 PM

Subject: Draft Agenda for Tomorrows 11:15 RFS meeting with Margo

Team,

Simplified Agenda for Tomorrows RFS2 Meeting with Margo. To those preparing materials, please have them ready by 10:15 for printing.

Thanks, Paul

Deliberative Process / Ex. 5

Anything else??????????

Paul N. Argyropoulos
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Office of Transportation & Air Quality
US Environmental Protection Agency
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Mobile: 202-577-9354
Email: argyropoulos.paul@epa.gov
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